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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF ARIZONA**

David Gallaher;

Plaintiff,

v.

Autovest, LLC;

Defendant.

No.

**COMPLAINT**

(Jury Trial Demanded)

**I. Preliminary Statement**

1. Plaintiff brings this action for damages based upon Defendant's violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §§ 1692 *et seq.* In the course of attempting to collect a debt, Defendant intentionally engaged in deceptive, unfair and abusive debt collection practices in violation of the FDCPA. Plaintiff seeks to recover statutory damages, actual damages, costs and attorney's fees.

**II. JURISDICTION**

2. Jurisdiction of this Court, over this action and the parties herein, arises under 15 U.S.C. § 1692k(d) (FDCPA), and 28 U.S.C. § 1331. Venue lies in the Tucson Division of the District of Arizona as Plaintiff's claims arose from acts of the Defendant perpetrated therein.

**III. PARTIES**

3. Plaintiff is a resident of Santa Cruz County, Arizona.
4. Plaintiff is a natural person who is allegedly obligated to pay a debt which was incurred for personal, family, or household purposes.
5. Plaintiff is a "consumer" as that term is defined by FDCPA § 1692a(3).
6. Defendant Autovest, LLC is a Michigan limited liability company registered to do business within the state of Arizona.
7. Autovest regularly uses the courts in Arizona to collect consumer debts.
8. Autovest collects or attempts to collect debts which it claims to have purchased or been assigned after default.
9. Autovest is a "debt collector" as that term is defined by FDCPA § 1692a(6).

**IV. Factual Allegations**

10. On June 19, 2014, Autovest filed suit against Mr. Gallaher in the Santa Cruz County Superior Court of Arizona to collect a debt allegedly owed by Plaintiff.
11. Autovest repeatedly alleged in the Superior Court Complaint that it is the assignee of a contract between Wells Fargo Financial, Inc. and Mr. Gallaher.

12. To support the allegations that it is the assignee of the Wells Fargo contract, Autovest attached a document to the complaint titled Assignment of Installment Contract (hereinafter "Assignment"). (A copy of this document is attached hereto as Exhibit A).

13. The Assignment states the following:

**ASSIGNMENT OF INSTALLMENT CONTRACT**

Obligor(s)	DAVID GALLAHER
Original Creditor	Wells Fargo Financial, Inc.
Installment Contract Date	February 14, 2008
Vehicle	2005 HONDA ACCORD
Vehicle Identification Number	1HGCM56775A 126443

On July 08, 2010, Wells Fargo Financial, Inc, a Iowa corporation (Assignor), located at 800 Walnut Street, Des Moines, Iowa 50319-3636, hereby assigns the Installment Contract, including any security Interest, described above for good and valuable consideration, the sufficiency of which has been acknowledged by all parties, to Autovest, L L C, a Michigan limited liability company, (Assignee), located at 26261 Evergreen Road, Suite 390, SOUTHFIELD, Michigan 48076

ASSIGNOR:

Wells Fargo Financial, Inc.

BY /s/ Darren Kazich  
Darren Kazich, Agent

14. Autovest created the Assignment and attached it to the Complaint in order to falsely represent that a Wells Fargo employee signed the document verifying that Mr. Gallaher's contract has been assigned to Autovest.

15. The alleged "agent," Darren Kazich, who signed the Assignment is an employee of Autovest, not Wells Fargo.

16. Autovest attached the Assignment to the Complaint in order to support

- 1 its claim that it is the assignee of the Wells Fargo contract.
- 2 17. Autovest routinely uses these “Assignment” forms signed by Kazich in
- 3 order to mislead consumers into believing that the statement was
- 4 signed by a Wells Fargo employee.
- 5 18. Nowhere does Autovest clarify or disclose that the Assignment was
- 6 signed by an employee of Autovest, not Wells Fargo.
- 7 19. Autovest purposefully uses the misleading Assignment to falsely
- 8 represented that Wells Fargo provided the Assignment to establish that
- 9 Plaintiff’s contract had been assigned to Autovest.
- 10 20. At the time Autovest filed suit and attached the Assignment to the
- 11 complaint, it knew, or should have known, that its misrepresentation as
- 12 to the origin of the Assignment was false and misleading to the least
- 13 sophisticated debtor.
- 14 21. As a result of Defendant’s actions as outlined above, Plaintiff has
- 15 suffered actual damages including, but not limited to, legal expenses,
- 16 anxiety, worry, and other emotional distress.
- 17 22. Defendant’s actions as outlined above were intentional, willful, and in
- 18 gross or reckless disregard of Plaintiff’s rights, and part of Defendant’s
- 19 persistent and routine practice of debt collection.
- 20 23. In the alternative, Defendant’s actions were negligent.

21 **V. Causes of Action**

22 **a. Fair Debt Collection Practices Act**

- 23 24. Plaintiff repeats, realleges, and incorporates by reference the foregoing
- 24 paragraphs.
- 25 25. Defendant’s violations of the FDCPA include, but are not necessarily

1 limited to, 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(5), 1692e(10), and  
2 1692e(14).

3 26. As a direct result and proximate cause of Defendant's actions in  
4 violation of the FDCPA, Plaintiff has suffered actual damages.

5 **VI. DEMAND FOR JURY TRIAL**

6 Plaintiff hereby demands a jury trial on all issues so triable.

7 **VII. PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff requests that judgment be entered against  
9 Defendant for:

- 10 a) Actual damages under the FDCPA;  
11 b) Statutory damages under the FDCPA;  
12 c) Costs and reasonable attorney's fees pursuant to the FDCPA; and  
13 d) Such other relief as may be just and proper.

14  
15 DATED June 18, 2015.

16  
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